IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

CRL.A.No. 1137 of 2002()

CC.349/2000 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM
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APPELLANT: COMPLAINANT

SASIDHARAN PILLAI, CHONEZHUTHU VEEDU,
MEENATHUCHRRY, KAVANADU P.O.,
SHANTHIKULANGARA VILLAGE, KOLLAM.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENTS: ACCUSED
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1. **J.OMANA, CHETHUMOODU VEEDU, NEAR DIARY FARM, THEKKEVILA P.O., KOLLUR VILA, ERAVIPURAM.**

2. **STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.1137 of 2002(D)

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Dated this the 8th day of August, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.349/2000 in the file of the Judicial Magistrate of the First Class-II, Kollam, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 10/09/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

Sd/-

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.A.No.1137 of 2002(D)

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J U D G M E N T

8th August, 2007